



State Water Resources Control Board



Linda S. Adams
*Secretary for Environmental
Protection*

Executive Office

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Arnold Schwarzenegger
Governor

NOTICE OF PUBLIC HEARING ON STAY REQUEST

The State Water Resources Control Board will hold a hearing to consider issuance of a stay of
Waste Discharge Requirements Order R5-2006-0078 for the Port of Stockton's West Complex
Docks 14 and 15 Dredging Project
Issued by the Central Valley Regional Water Quality Control Board

Petition of Baykeeper's Deltakeeper Chapter, California Sportfishing Protection Alliance, Friends
of Riviera Cliffs, and Stockton Standing Up

SWRCB/OCC File No. A-1764

Wednesday, September 20, 2006, 10:00 a.m.

**Cal/EPA Building
1001 I Street
Coastal Hearing Room, 2nd Floor
Sacramento, California**

PURPOSE OF HEARING

The State Water Resources Control Board (State Water Board) has received a request from Baykeeper's DeltaKeeper Chapter, California Sportfishing Protection Alliance, Friends of Riviera Cliffs, and Stockton Standing Up (Petitioners) to stay Waste Discharge Requirements Order No. R5-2006-0078 issued by the Central Valley Regional Water Quality Control Board (Central Valley Water Board) on August 4, 2006. The State Water Board will hold a hearing to consider issuance of a stay.

The purpose of this hearing is to receive any relevant testimony or evidence and to hear policy statements on whether to issue a stay in this matter. The grounds for considering a stay will be limited to those allegations set forth in Petitioners' submissions. A stay of the Waste Discharge Requirements may be granted only if Petitioners allege facts and produce proof of (1) substantial harm to itself or to the public interest if a stay is not granted, (2) a lack of substantial harm to other interested persons and to the public interest if a stay is granted, and (3) substantial questions of fact or law regarding the permit. The hearing will be limited to those issues.

The hearing will be held on **Wednesday, September 20, 2006, at 10:00 a.m.** The hearing will be conducted by a State Water Board Member acting as hearing officer. At the hearing, the hearing officer will receive oral and written testimony and policy statements on the issue

described above. All persons who wish to provide information relating to whether the stay should or should not be issued may submit policy statements.

HEARING PARTICIPATION

Participants at the hearing are either “parties” or “interested persons.” Parties to the hearing may present evidence and are subject to cross-examination. Parties may also cross-examine other parties’ witnesses. The scope of cross-examination is limited to testimony presented during direct examination and the evidence relied upon by the witness.

Parties and interested persons may present non-evidentiary policy statements. Interested persons are not subject to cross-examination and may not cross-examine other participants. Parties may be cross-examined only regarding evidence they submit and not on policy statements. Parties must clearly identify any portion of their presentations that are policy statements. Policy statements may refer to evidence in the record and must be limited to **five pages, double-spaced, with a font no smaller than 12.**

The following participants are hereby designated as parties at the hearing:

1. Petitioners (Baykeeper’s DeltaKeeper Chapter, California Sportfishing Protection Alliance, Friends of Riviera Cliffs, Stockton Standing Up),
2. Port of Stockton, and
3. Central Valley Regional Water Quality Control Board.

Any other person who wishes to participate in the hearing as a party must request such status. Requests must be submitted no later than **5:00 p.m. on September 8, 2006**. A submission shall explain the basis for party status and why the existing parties do not adequately represent the person’s interests. Persons or entities with similar interests are requested to select one representative to serve as a party on behalf of the group. All designated parties must submit the following no later than **5:00 p.m. on September 13, 2006**: (a) the physical evidence and exhibits that will be presented on September 20, and (b) a list of witnesses along with a summary of the testimony that each witness will present on September 20. All submissions shall be made to:

Song Her
Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor [95814]
P.O. Box 100
Sacramento, CA 95812-0100
Email: commentletters@waterboards.ca.gov

The State Water Board will strictly enforce the deadlines, page limits, and limits on oral presentations and written submissions described herein.

Oral testimony that goes beyond the scope of written submittals will be excluded. Written declarations from persons who are not present and subject to cross-examination will not be made part of the record. Parties who propose to offer expert testimony must include a statement of qualifications for each of their expert witnesses. Parties must submit all documents to the State Water Board and must send one copy to each of the other parties. Parties may make electronic submissions. Interested persons are asked to submit one copy of any policy statement in advance, but only to the State Water Board.

HEARING PROCEDURES

To ensure that everyone has an opportunity to participate in the hearing, the following time limits will apply. Petitioners will be allotted one hour and all other parties will be allotted 45 minutes each to present evidence, testimony, cross examination, and policy statements. (If additional parties are added, the hearing officer will consider allotting additional time for cross-examination of those witnesses.) Interested persons will have up to 5 minutes to present a policy statement. Interested persons with similar concerns should participate in a joint presentation, and the hearing officer may limit such statements if they are repetitive. Participants are expected to avoid redundant comments.

The hearing officer will conduct the hearing in accordance with the State Water Board's regulations governing adjudicative proceedings and the Administrative Procedure Act (APA). The State Water Board's regulations are in the California Code of Regulations, title 23, section 648 et seq. (<http://www.calregs.com>) and will be provided upon request. The APA provisions are at California Government Code section 11400 et seq. The hearing will not be conducted as a formal hearing under Chapter 5 of the APA (commencing at Government Code section 11500).

FURTHER ACTION ON THE STAY REQUEST

The hearing officer has the authority to act on behalf of the State Water Board to grant or deny the request for stay based on the evidence and presentations at the hearing. The hearing officer may also refer the matter to the full State Water Board, which may act on the stay request at a subsequent meeting, the time and place of which will be publicized. If the matter is referred to the full State Water Board, a draft decision will be circulated to the public, and the public will have an opportunity to comment on the draft decision prior to final State Water Board action. The State Water Board will not allow the introduction of further evidence, testimony, or exhibits following the close of the hearing.

LOCATION AND ACCESSIBILITY

The Cal/EPA Building is accessible to people with disabilities. Public parking is available across the street from the building. A map of the exact location is attached to this notice.

Individuals who require special accommodations are requested to contact Adrian Perez at (916) 341-5880 at least five (5) working days prior to the hearing.

IF YOU HAVE ANY QUESTIONS

Questions concerning the hearing may be addressed to Karen O'Haire, Senior Staff Counsel, at (916) 341-5179 or at kohaire@waterboards.ca.gov.



Song Her
Clerk to the Board

Dated: September 1, 2006

Enclosure

